

CALIFORNIA FRANCHISE TAX BOARD

Internal Procedures Manual
General Tax Audit Manual

12000 POWER OF ATTORNEY – FORM FTB 3520

We can disclose confidential information only to the taxpayer to whom the information pertains, and to the taxpayer's authorized representative. The taxpayer can designate a representative by executing a Power of Attorney. The Power of Attorney (Form FTB 3520) is the general form for obtaining powers of attorney for individuals, corporations, partnerships, Limited Liability Companies, and others. Subject to revocation, it authorizes the taxpayer's representative to receive confidential tax information and to act on behalf of the taxpayer in tax matters.

If a tax matter concerns a joint return, and taxpayers have requested joint representation, both husband and wife must sign the Power of Attorney. For corporations, a principal officer of the corporation must sign. A principal officer is the president, vice-president, secretary, treasurer, and secretary-treasurer. A tax manager is not necessarily a principal officer, so make sure that the signer has the power to execute the power of attorney.

NOTE: Unless the majority shareholder is currently a principal officer of the corporation, that shareholder may *not* execute the Power of Attorney. Nor can an individual who was a principal officer of the corporation for the tax years under examination, but who is no longer a principal officer.

We have revised the Power of Attorney several times. The November 1993 revision has problematic language. In the time limit section, it states: "If no time limit is specified, this Power of Attorney will be effective for one year from the signature date." Side Two of the Power of Attorney gives the taxpayer a place to limit the time the Power of Attorney remains in effect. Generally, if there is no time limit, the Power of Attorney remains in effect until the taxpayer revokes it or until all tax matters stated on the form are finally resolved.

Pay attention to the language and version of Power of Attorney forms in case files. We believe that the problematic language appears only on the November 1993 version and was removed as of the September 1994 revision date. If you find the older version of the form in a file, verify the correct statute date and get another Power of Attorney, if needed.

As of August 1, 1999, we have a centralized Power of Attorney Database and a Power of Attorney Unit to process and store Power of Attorney documents. The POA unit is our primary contact for Power of Attorney documents, and keeps

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paper copies of the documents for an appropriate period. If you receive a Power of Attorney during an examination, send a copy to the POA unit for storage and keep the original in the audit file. Send the information to the POA unit within 24 hours of receipt, to keep the database current.

Send the POA to the POA unit by any of these means:

- *Interoffice Mail: Mail Stop C-2*
- *Fax: * * * * **
- *Email (if you receive the POA in your network fax): "POAFX"*

If you need a document on file from the POA unit, or have questions about the database, contact them at * * * * *.

NOTE: Do not include contact information from the initial contact letter in the Power of Attorney database. Update the Power of Attorney database only with information from Power of Attorney forms.

GTAM 12100	WHEN A POWER OF ATTORNEY IS NOT REQUIRED
GTAM 12200	FACSIMILE AND/OR PHOTOCOPIED POWER OF ATTORNEY
GTAM 12300	DEPARTMENTAL POWER OF ATTORNEY PROCESSING PROCEDURES

NOTE: ((* *)) = Indicates confidential and/or proprietary information that has been deleted.

Reviewed: April 2003

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12100 WHEN A POWER OF ATTORNEY IS NOT REQUIRED

The taxpayers must have an executed Power of Attorney to authorize their representatives to waive the statute of limitations, receive refunds, or perform any action other than representing them during the audit.

The taxpayers do not need a Power of Attorney if they tell you who to contact for information during an examination. If someone other than the taxpayer completes and returns the initial contact letter, you can infer that the taxpayer provided the initial contact letter to this person.

At the conclusion of your audit, you can send a copy of the notice to the representative and the taxpayer. However, you cannot send the notice only to the representative.

If you have concerns about authority, seek a signed Power of Attorney.

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12200 FACSIMILE AND/OR PHOTOCOPIED POWER OF ATTORNEY

The Department's Taxpayer Signature and Authentication Policy (FTB Policy File 9140, October 1994) gives internal guidance on the level of authentication required on specific documents, including whether we can accept a photocopy or facsimile of a document.

Taxpayer authentication means any method that we can use to verify a taxpayer's identity. Currently, original signature on paper is the most common method. This may change as new technologies develop.

The Power of Attorney (Form FTB 3520) is in Category 1 of the Department's Taxpayer Signature and Authentication Policy. We need original signatures on documents listed in Category 1. However, if there is no reason to suspect that the form has been forged or is otherwise invalid, we can accept a facsimile or photocopied Power of Attorney.

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12300 DEPARTMENTAL POWER OF ATTORNEY PROCESSING PROCEDURES

If you receive a Power of Attorney form directly from taxpayers or their representatives, follow the procedures listed below.

IF	AND	THEN
<p><i>Power of Attorney form is complete.</i></p> <p>A complete form must include all of the following:</p> <ul style="list-style-type: none">• authorization for use by FTB• specific tax years• representative acts authorized• taxpayer signature.	<p>Form is an acceptable form.</p> <p>Following are acceptable forms:</p> <ul style="list-style-type: none">• FTB POA Form 3520• BOE POA Form 392• EDD POA Form DE 48• IRS POA Form 2848• IRS Form 8821• Durable POA• Handwritten POA	<p>Write or stamp the received date on the Power of Attorney.</p> <p>Keep the original in the audit file.</p> <p>Send a copy to the POA unit via:</p> <ul style="list-style-type: none">• Interoffice Mail: Mail Stop C-2• Fax: * * * * *• Email: "POAFX" <p>Note: On the routing slip or faxed cover sheet: indicate your <i>name, phone number, mail-stop</i>, and note that the original is in the audit file.</p>
<p><i>Power of Attorney form is incomplete.</i></p> <p>A Power of Attorney is incomplete if any of the following is missing:</p> <ul style="list-style-type: none">• taxpayer signature• specific tax years• representative "Acts Authorized"• specific FTB Tax Form (540, 100, 100S, 541,		<p>Get the missing information from the taxpayer, or a new Power of Attorney, if necessary.</p> <p>Once complete:</p> <ul style="list-style-type: none">• Write or stamp the received date on the Power of Attorney.• Keep the original in the audit file.• Send a copy to the

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etc), if the taxpayer did not use FTB Form 3520.		<p>POA unit via:</p> <ul style="list-style-type: none">• Interoffice Mail: Mail Stop C-2• Fax: (916) 845-0523 or (916) 845-9511• Email: "POAFX" <p>Note: On the routing slip or faxed cover sheet: indicate your <i>name</i>, <i>phone number</i>, <i>mail stop</i>, and note that the original is in the audit file.</p>
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